

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 3.19  
(ID # 20702)**

**MEETING DATE:**  
Tuesday, December 13, 2022

**FROM :** HUMAN RESOURCES:

**SUBJECT:** HUMAN RESOURCES: Approval of the Workers' Compensation Alternate Dispute Resolution (ADR) Agreement Riverside Sheriff's Association (RSA) Law Enforcement and Corrections Bargaining Units, All Districts. [Total Cost \$350,482, with an ongoing cost of \$350,482, 100% Department Funds]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the Workers' Compensation Alternative Dispute Resolution (ADR) Agreement Riverside Sheriff's Association (RSA) and County of Riverside (RIVCO) (Attachment "A"), and;
2. Authorize the Chair to sign the Workers' Compensation Alternative Dispute Resolution (ADR) Agreement Riverside Sheriff's Association (RSA) and County of Riverside (RIVCO) (Attachment "A").

**ACTION:Policy**

  
Michael Bowers, Assistant HR Director 11/29/2022

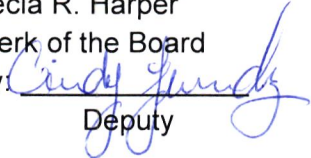
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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Washington, seconded by Supervisor Spiegel and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, and Hewitt  
Nays: None  
Absent: Perez  
Date: December 13, 2022  
xc: HR

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$0	\$350,482	\$350,482	\$350,482
<b>NET COUNTY COST</b>	\$0	\$0	\$0	\$0
<b>SOURCE OF FUNDS:</b> 100% Department Funds			<b>Budget Adjustment: No</b>	
			<b>For Fiscal Year: 22/23</b>	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

California State law permits employers and labor unions to create a carve-out program to address certain aspects of workers' compensation cases where disputes may arise. The County of Riverside engaged in negotiations to establish a workers' compensation carve-out program with the Riverside Sheriff's Association (RSA) Law Enforcement and Corrections Bargaining Units. The County of Riverside along with RSA successfully petitioned the State of California for authority to negotiate a labor management agreement pursuant to Labor Code section 3201.7 to achieve this. Management and Labor established a Joint Labor Management Group which crafted a worker's compensation carve-out program designed for RSA's Law Enforcement and Corrections Bargaining Units.

The workers' compensation carve-out program also referred to as an alternative dispute resolution (ADR) program is designed to expedite disputes related to workers' compensation issues, ensure prompt treatment for injured deputies, decrease lengthy litigation, and improve the process in determining medical treatment plans. The new program provides a definitive plan to expedite the delivery of workers' compensation benefits to better serve the needs of the RSA's Law Enforcement and Corrections members. The expected benefits of implementing this program are the following:

- Streamlined medical care
- Reduction in the amount of lost time from work
- Reduction in delays encountered in the State's workers' compensation system
- Reduction of disputes and litigation
- Reduction of costs due to delays in the current system

The County and RSA have collaborated on developing a better point of entry for medical treatment that will streamline authorizations and access to high-quality medical treatment. Most workers' compensation injuries involving public safety officers are orthopedic in nature. The ADR program will develop a better point of entry through creation of a panel of authorized orthopedic treating physicians that is expected to expedite recovery and reduce delays in treatment.

Additionally, the new ADR process establishes a list of independent medical examiners (IME) made up of qualified medical professionals who can address a variety of different medical specialties in the event of a dispute. The medical professionals have been selected based on

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

their ability to be fair and impartial as well as their knowledge of peace officer related medical issues. In the event of a dispute related to the treatment of an injury or illness, an evaluation with an IME physician will occur under the new ADR process. The goal of the program is to expedite the medical process and resolve issues on average within 60 days. The current system can take between 6 to 9 months and sometimes even longer. This process will also be used in any dispute regarding whether an injury or illness is work related. RSA and the County negotiated the list of the IMEs for the different specialties, such as orthopedics and internal medicine.

The program's criteria have been outlined and agreed upon by all parties and the program is now ready to be submitted to the State for review and approval prior to implementation. The County has worked closely with representatives of RSA to design and establish an ADR program that satisfies the interests of both parties and will achieve approval of the California State Department of Industrial Relations, Division of Workers' Compensation and PRISM (the County's excess workers' compensation insurance provider).

Upon authorization by the Board of Supervisors to implement the ADR program, the Workers' Compensation Alternative Dispute Resolution Agreement Between County of Riverside and RSA's Law Enforcement and Corrections Bargaining Units will submit the Program to the California State Department of Industrial Relations, Division of Workers' Compensation. Once it is approved by the State, we expect the ability to immediately implement the program. RSA's Law Enforcement and Corrections Bargaining Units have voted and approved the agreement.

As part of the ADR program, the County will provide RSA five dollars and seventy cents (\$5.70) per employee per pay period (for 24 pay periods per year) to administer an employee Wellness Program.

**Impact on Residents and Businesses**

There is no impact on residents and businesses.

**Additional Fiscal Information**

The ADR program with RSA's Law Enforcement and Corrections Bargaining Units is designed to expedite the delivery of workers' compensation benefits, reduce the number of lost workdays, reduce litigation, and potentially save money.

**Attachments:**

Attachment A: Workers' Compensation Alternative Dispute Resolution (ADR) Agreement with Riverside Sheriff's Association (RSA) and County of Riverside (RIVCO)  
Attachment B: Side Letters between Riverside County and RSA

SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA

*Meghan Hahn*  
Meghan Hahn, Principal Management Analyst

12/1/2022



Juan C. Perez, Chief Operating Officer

12/7/2022

*Gregg Gu*  
Gregg Gu, Chief Deputy County Counsel

12/1/2022

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

The Workers' Compensation Alternative Dispute Resolution Agreement ("Agreement") is entered into by and between the Riverside Sheriffs' Association ("RSA") and the County of Riverside ("RIVCO" or "County")(collectively, "parties"). This Agreement is created pursuant to California Labor Code Section 3201.7(a)(3)(C).

Nothing in this Agreement diminishes the entitled of a covered employee to compensation payments for total or partial permanent disability, total or partial temporary disability, or medical treatment fully paid by the employer as otherwise provided for in Division 4 of the California Labor Code ("Workers' Compensation Law"), nor to California Labor Code Section 4850 benefits et. seq. Nothing in this Agreement denies to any covered employee the right to representation by counsel at all stages during this alternative dispute resolution process.

**Article 1: Purpose**

The purpose of this Agreement is to provide covered employees and retirees, as defined in Article 3, paragraphs A-B below, claiming compensable injuries under Workers' Compensation Law, with an alternative dispute resolution process with the intent of expeditiously resolving disputes.

This purpose will be achieved by utilizing an exclusive list of agreed-upon independent medical evaluators ("IMEs") to be the sole and exclusive source of medical evaluations for disputed issues surrounding covered employees in accordance with California labor code section 3201.7(a)(3)(C).

Now, therefore, in consideration of the mutual terms, covenants and conditions herein, the parties agree as follows:

**Article 2: Term of Agreement and Right to Terminate**

- A. The parties understand that this agreement governs a pilot program and that this Agreement shall become effective on or about March 2023, only after it is approved by the County of Board of Supervisors, executed by the parties, submitted to the Administrative Director ("Director") of the State of California, Department of Industrial Relations, Division of Worker's Compensation, in accordance with Title 8, California Code of Regulations, section 10202(d), and accepted by the Director as evidenced by the Director's letter to the parties indicating approval of the Agreement.
- B. This Agreement shall remain in effect for at least one (1) year from the date of the Director's letter of approval to the parties. Thereafter, it shall continue and remain in force from year-to-year unless terminated by either party as provided below.
  - a. The parties reserve the right to terminate this agreement by mutual agreement or by act of legislature. The terminating party must give at least thirty (30) calendar days written notice to the other party of the intent to

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

terminate. The parties agree to meet and confer in good faith to try resolve any/all issues underlying the proposed termination of the Agreement prior to the Agreement's termination. Upon termination of this Agreement, the parties shall become fully subject to the provisions of the applicable California Labor Code provisions to the same extent as they were prior to the implementation of this agreement, except as otherwise specified herein.

- b. Any claim arising from industrial injury that is covered by this Agreement and filed before the termination of this Agreement shall continue to be covered by the terms of this Agreement, until all medical-legal issues related to the pending claim are resolved. Injuries occurring and claims filed after termination of this Agreement are not covered by this Agreement.

**Article 3: Scope of Agreement**

- A. This Agreement applies only to injuries, as defined by Workers' Compensation Law, claimed by the following (referred to collectively as "covered employees"):
  - a. Active County employee who are members of RSA;
  - b. Retirees of the County who are members of RSA who claim a presumptive injury as defined by California Labor Code Section 3212 et. seq.; including 3213.2; and
  - c. Active County employees who are members of RSA and who file a claim and subsequently retire before the claim is resolved. Such individuals are covered under this Agreement only for the purposes of petitions to reopen a pre-existing claim unless covered under A(b) of this paragraph.
- B. This Agreement is restricted to:
  - a. Establishing an exclusive list of IMEs to be used for medical dispute resolution of covered employees, and
  - b. Establishing a process for treatment and informal legal discovery in accordance with Article 5 for purposes of this Agreement, a "claimed injury" is one for which either a Workers' Compensation Claim Form DWC-1 or an Application for Adjudication of Claim has been filed with the Workers' Compensation Appeals Board ("WCAB").
- C. This Agreement does not apply to any other retired individuals, nor does it apply to claims filed before the effective date of this Agreement, except to the extent such claims fall within paragraph D below.

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

- D. Active employees and retirees with an existing claim filed prior to the effective date of this Agreement ("pre-existing claim") who have not already had a medical-legal evaluation by an Agreed Medical Evaluator or Qualified Medical Evaluator under California workers' compensation system may request to resolve their claims under the provisions of this Agreement. Such requests must be made in writing to the County. The authority to decide whether to accept a pre-existing claim into the ADR program described in this Agreement will lie solely with, and depend on the mutual agreement of, both the County and the employee (or if the employee is represented, by the employee's legal representative acting on behalf of the employee). If a request is made to utilize the ADR program described in this Agreement for a pre-existing claim and that request is approved, the individual will be resolved according to the provisions of this Agreement.
  
- E. The scope of this Agreement does not apply to retirees that have a medical dispute that is outside the five (5) year statute of limitations or California Labor Code Section 5804.

**Article 4: Expedited Independent Medical Evaluator ("IME") Process**

- A. This Agreement does not constitute a Medical Provider Network ("MPN"). Unless otherwise allowed by law, all covered employees must utilize the County's MPN for treatment purposes during the time the County maintains and utilizes the MPN. The parties agree to collaboratively select and create an appropriate MPN physicians/medical groups list and provide such physicians/medical groups with a comprehensive agreed upon list of pre-authorized treatment and/or testing. All MPN physicians will have prior authorization for medical appointments and limited treatment consistent with California Labor Code Section 4600. The MPN is governed by the California Labor Code Section 4616 et. seq. Physicians who act as a covered employee's treating physician, or have provided treatment to the covered employee shall not act as the IME in the covered employee's claim. Pre-designation of a physician must comply with the requirements set forth in California Labor Code Section 4600(d)(1)-(2)(C).
  
- B. An IME shall be used for all medical disputes that arise in connection with a workers' compensation claim; including, but not limited to, determination of causation, the nature and extent of an injury, the nature and extent of permanent disability and apportionment, work restrictions, ability to return to work (including transitional duty), future medical care, and resolution of all medical treatment disputes arising from utilization review, including the need for spinal surgery. The parties agree that the covered employee shall use the originally chosen IME for all subsequent disputes and injuries (within their medical specialty) claimed under this Agreement. In the event that the said IME is no longer available, the parties shall utilize the next specialist on the list pursuant to Article 4(I)(e) below.

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

- C. All covered employees with a disputed medical issue as described in Article 4(B), must be evaluated by an approved physician from the exclusive list of IMEs. Attached hereto as *Exhibit A* is the exclusive and sole list of IMEs initially agreed upon by the parties. Should the covered employee claim injuries requiring more than one (1) IME specialist, the covered employee shall be provided an IME appointment in each area of specialty. If the IME requires the option of an additional sub-specialist, the IME shall advise the claims examiner, who shall then select an approved medical provider in the requested specialty from the agreed-upon IME list (the IME may not refer to the covered employee's treating physician for this purpose). The consulting sub-specialist's charges are subject to the Official Medical Fee Schedule ("OMFS") promulgated by the California Division of Workers' Compensation administrative director.
- D. The exclusive list of IMEs shall include the IME's respective specialties as determined or otherwise agreed upon by the parties.
- E. The IME process described above will be triggered when either party provides the other written Notice of an Objection in connection with any issues set forth in Article 4(B)
- a. Objection from the County shall be sent to the covered employee with a copy to the covered employee's legal representative, if represented.
- b. Objection from the covered employee or covered employee's legal representative shall be sent to the County (covered employee's assigned claims examiner) and County's legal representative, if applicable.
- F. Notice of objection shall be sent within twenty (20) calendar days of receipt of a medical report addressing any of the issues set forth above.
- G. The parties hereby agree that from time to time the exclusive list of IMEs may be amended. Amendment of the IME list may only occur as follows with written agreement between the County and RSA. For either party to propose adding or removing an IME to the exclusive list of IMEs, the party must provide notice in writing to the other party of its request to amend the existing IME list. The parties must mutually agree in writing to the addition or removal of physicians to the IME list. A physician may only be deleted from the exclusive list of IMEs if that physician breaches the terms and conditions of his/her contract with the County or by written mutual agreement of the parties. Notwithstanding the above, the exclusive list of IMEs shall be reviewed quarterly by the Joint Committee established herein, or as otherwise agreed upon by both parties for proposed addition and/or removal of IMEs. Any physician proposed for addition or deletion after the quarterly review or other agreed-upon period will be reviewed at the next scheduled review period.



**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

- H. Appointments:
- a. The County shall select the IME(s) by starting with the first name listed on the exclusive list of IMEs within the appropriate specialty, and continuing down the list, in order, until the list is exhausted, at which time the County will resume using the first name on the list. The IME list shall be organized in alphabetical order by the IMEs' last names. IMEs that cannot meet the appointment timeframes designated in the Physician Contract shall be bypassed for the next available IME on the list.
  - b. The County shall schedule any appointment(s) between the IME and covered employee and provide Notice of Appointment(s) to the covered employee within ten (10) calendar days of the date of receipt of the notice of objection, with such appointment to occur within thirty (30) calendar days of the Notice of Appointment. The Notice of Appointment shall include the location, date, time of the appointment and phone number of the evaluator's office.
  - c. Upon request, the covered employee shall be responsible for providing the County with his/her work schedule prior to an appointment being made, so that appointments can be made, if possible, during a covered employee's non-working hours.
  - d. Compensation for attending medical appointments under this Agreement shall be consistent with California Labor Code requirements.
  - e. Mileage reimbursement to covered employees shall be in accordance with California Labor Code Section 4600(e)(2) unless the County provides agreed upon transportation otherwise.
  - f. The IME shall submit the medical reports within twenty (20) calendar days following examination of the covered employee, pursuant to the terms of the IMEs contract, unless a longer period of time is agreed to in writing by the parties.
- I. The County will maintain a log, and provide to RSA upon request, of the following:
- a. Disputed claim details;
  - b. Timeframe (number of days) for setting IME appointments;
  - c. Timeframe (number of days) from IME appointment to receipt of medical report;
  - d. Dispute outcome; and

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

- e. Timeframe (number of days) from Notice of objection to final resolution/settlement.
- J. Notwithstanding California Labor Code Section 4605, the County is not liable for the cost of any medical examination used to resolve disputes governed by this Agreement where said examination is furnished by a medical provide that is not authorized by this Agreement. Medical evaluations shall not be obtained outside of this Agreement for disputed covered by this Agreement.
- K. Subject to med-legal challenges brought by the parties, both parties shall be bound by the opinion and recommendations of the IME selected in accordance with the terms of this Agreement.
- L. Either party who receives records prepared or maintained by the treating physician(s), or records (medical or non-medical) that are relevant to the determination of the medical issues, shall serve those records on the other party immediately upon receipt. If a party objects to the provision of any record(s) to the IME, the party shall object within fifteen (15) calendar days of the service of record(s) to the other party.
- M. Subject to the provisions of the California Labor Code, the County shall provide to the IME records received from the covered employee's treating physician(s) and medical or non-medical records relevant to the determination of the medical issues. The County shall prepare a list of all documents provide to the IME, and shall serve a copy of the list on the covered employee and/or on their legal representative.
- N. Unless otherwise agreed upon by the parties in writing, all communications with the IME shall be in writing and shall be concurrently served on the opposing party. This provision does not apply to oral or written communications by the covered employee or, if the covered employee is deceased, the covered employee's dependent, in the course of the covered employee's examination or at the request of the IME in connection with the examination. This provision also does not apply to communications solely and exclusively about scheduling the covered employee's IME evaluation, including arranging the exam date, joint letter, or service of agreed upon records.
- O. Ex parte communication with the IME is prohibited. If a party or their legal representative communicates with the IME in violation of Article 4 the aggrieved party may elect to terminate the medical evaluation and seek a new evaluation from the next IME on the exclusive list of IMEs pursuant to Article 4, paragraph (H)(a). If a new examination is required, the party making the communication prohibited herein shall be liable for the cost of the initial medical evaluation.

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

- P. If either party disputes a finding of the IME, they shall notify the other party of this dispute by way of written objection within fifteen (15) calendar days of actual receipt of the IME's report. Disputes of this nature shall be resolved either by way of supplemental interrogatory and report or by way of deposition unless otherwise agreed upon in writing by parties.

**Article 5: ADR Discovery**

- A. Covered employees will cooperate and provide the County with fully-executed medical, employment and concurrent employment releases, disclosure statements, and any other documents and information reasonably necessary for the County to resolve the covered employee's claim, when requested, and subject to the limitations set forth in the California Code of Civil Procedure, Labor Code, and Peace Officers Bill of Rights. If the covered employee fails to return the executed releases and it is determined that the medical information is not sufficient for the IME to provide a comprehensive evaluation, the parties shall meet to resolve the issue(s) within fifteen (15) calendar days prior to setting a medical evaluation. This Article does not diminish the parties' rights to pursue or contest discovery issues pursuant to the remedies provided in the California Labor Code or by the Workers' Compensation Appeals Board.
- B. This Agreement does not preclude a formal deposition of a covered employee or IME when necessary pursuant to the right of discovery in accordance with applicable provisions of the law. The need for an formal deposition may delay the scheduling of an appointment with an IME until the deposition has been completed. Attorney's fees for depositions of covered employees shall be paid at a rate consistent with California Labor Code Section 5710. There shall be no attorney's fees for depositions of IMEs or other physicians.

**Article 6: Industrial Disability Retirements**

RSA and RIVCO recognize that the ADR process within this Agreement can also be utilized to obtain a competent medical opinion as it relates to determining an employee's eligibility for an Industrial Disability Retirement (IDR), pursuant to California Government Code Sections 21154 and 21156(a)(2) et. seq.

RSA and RIVCO agree that all IME reports obtained by and/or through this ADR process shall be admissible in any proceedings and/or hearing involving a covered employee's claim for Industrial Retirement.

**Article 7: Establishment of a RIVCO and RSA "Joint Committee"**

Notwithstanding the rights and obligations set forth Agreement, the parties recognize this Agreement may be modified in the future depending upon the needs or desires of the

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

parties which may be unknown or undetermined at this time. Accordingly, the County and RSA agree to create a Joint Committee who's function is to maintain the intent of this Agreement by quarterly meeting to discuss requested modifications, enforcement, or issues of the terms of this Agreement or functionality of the ADR program.

**Article 8: General Provisions**

- A. This Agreement constitutes the entire understanding of the parties and superseded all other agreements, oral or written, with respect to the subject matter in this Agreement.
- B. Upon knowledge of any claim for benefits under this Agreement, the County will provide RSA with notification that a claim has been made by a member. The purpose of this notification is to ensure RSA immediate contact with it's respective member to ensure compliance with the terms of this Agreement and necessary enforcement of provisions/understandings herein.
- C. This Agreement shall be governed and construed pursuant to the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, or any other appropriate court in such county.
- D. This Agreement, including all attachments and exhibits, shall not be amended, nor any provisions waived, except as evidenced by written agreement between the County and RSA.
- E. If any portion of this Agreement is found to be unenforceable or illegal the remaining portions shall remain in full force and effect.
- F. This Agreement may be executed in counterparts.
- G. Notice required under this Agreement shall be provided to the parties as follows:

RSA: Executive Director / President  
Riverside Sheriffs' Association  
21810 Cactus Avenue  
Riverside, CA 92518

RIVCO: Michael Bowers  
Human Resources  
4080 Lemon St. 7<sup>th</sup> Floor  
Riverside, CA 92502

**WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION (ADR) AGREEMENT**  
Riverside Sheriffs Association (RSA) and County of Riverside (RIVCO)

The parties hereto have executed this Agreement in the County of Riverside, California.

RIVERSIDE SHERIFFS' ASSOCIATION

By: W.M. Tz

Date: 12/12/22

COUNTY OF RIVERSIDE

By: Jeff Hewitt

Date: 12/13/2022

**JEFF HEWITT**

CHAIR, BOARD OF SUPERVISORS

FORM APPROVED COUNTY COUNSEL

BY: Gregg M. Gu DATE 12-1-22

ATTEST:

KECIA R. HARPER, Clerk

By: Cindy Summery  
DEPUTY

DEC 13 2022 3:19